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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,605	12/02/2005	John Keith Marlow	5770	1515
26936 7590 06/19/2007 SHOEMAKER AND MATTARE, LTD 10 POST OFFICE ROAD - SUITE 110 SILVER SPRING, MD 20910			EXAMINER HSIAO, JAMES K	
			ART UNIT 3683	PAPER NUMBER
			MAIL DATE 06/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,605

Applicant(s)

MARLOW, JOHN KEITH

Examiner

James K. Hsiao

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/2/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 27, 29, and 40-43 objected to because of the following informalities:
Regarding claims 27 and 29 the word "actuatable" appears to be a misspelling.
Regarding claims 40 -43, the claims appear to be in the wrong order as 40 depends on 42 and 41 on 43. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30, 32 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 30, it is unclear what the term "single acting" means. Does it act by itself, independent of the user and control system?

Regarding claim 32, it is unclear what is being claimed in the claim. What is the switch doing?

Regarding claim 35, it is unclear what is meant by directly or indirectly.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 24-26 and 35-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Hideki (JP-09058462).

Regarding claim 24, Hideki discloses a braking apparatus for use with a hand propelled vehicle having a handle by which said vehicle is propelled by hand and braking means for braking said vehicle (abstract), said apparatus including means for sensing touch of, or grip of, portion of said handle by a user propelling said vehicle (abstract), and control means associated with said touch or grip sensing means for preventing or stopping movement of said vehicle by actuation of said braking means after or upon a predetermined movement of said vehicle subsequent to release of handle of said vehicle by said user as sensed by said touch or grip sensing means (abstract).

Regarding claim 25, Hideki discloses wherein the touch or grip means comprises one or more touch sensitive switches (2).

Regarding claim 26, Hideki discloses wherein touch sensitive switch comprise a touch pad on or in the handle (abstract paragraph 3).

Regarding claims 35 and 36 Hideki discloses movement sensing means (11) associated with said vehicle for sensing the velocity of movement of the vehicle and/or directly or indirectly, the distance moved by the vehicle (paragraph 15 of translation).

Regarding claim 38, Hideki discloses a hand propelled vehicle having a plurality of supporting wheels and a handle for propelling said vehicle and braking apparatus for braking movement of said vehicle, said braking apparatus being adapted to prevent or

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stop movement of said vehicle upon a predetermined movement or velocity of said vehicle subsequent to release of said handle by a user (abstract).

Regarding claim 39, Hideki discloses wherein said handle includes touch sensitive means for sensing grip or touch on the handle or release of the handle by said user (abstract).

Regarding claim 42, Hideki discloses A vehicle having a plurality of supporting wheels, braking apparatus for braking movement of said vehicle by braking one or more of said wheels, control means for sensing when a user of said vehicle no longer has control of said vehicle, said control means being further adapted to actuate said braking apparatus to prevent or stop movement of said vehicle upon a predetermined movement or velocity of said vehicle subsequent to release of control of said vehicle by said user (abstract).

Regarding claim 40, Hideki discloses wheel rotation sensing means for sensing wheel rotation to sense vehicle speed or distance (11).

Regarding claim 41, Hideki discloses a programmable control means associated with the touch sensing means and wheel rotation sensing means to control application of a brake to a vehicle wheel to stop movement of the vehicle (6).

Regarding claim 43, Hedeki discloses wherein said control means includes touch or pressure sensitive means responsive to said user for sensing that the user has or no longer has control of said vehicle (abstract and 2).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hideki (JP-09058462) in view of deGoma (US-6296261).

Regarding claim 27, Hideki lacks an actuating brake assembly. deGoma teaches wherein said vehicle includes a plurality of wheels and wherein said braking means comprises a selectively actuating brake assembly (fig 3) associated with one or more of said wheels and wherein said control means prevents or stops movement of the vehicle by actuation of said selectively actuating brake assembly.

Regarding claim 28 deGoma teaches wherein said brake assembly comprises a brake activation device and a braking member which is movable by the activation device into engagement with a vehicle wheel to prevent or stop rotation thereof.

Regarding claim 29, deGoma teaches wherein the brake activation device is selectively actuated to release the braking member from the wheel to allow its rotation (30).

Regarding claim 30 (as best understood), deGoma teaches wherein said activation device is single acting and associated with a mechanical member, which applies a braking force to, or releases a braking force from the braking member, in accordance with the state of activation of the brake activation device (fig 3).

Regarding claim 31, Hideki discloses an electrically operated activation device (6).

Regarding claim 32, Hideki discloses wherein said control means includes a switch through which power is supplied to said brake activation device, said switch being associated with the touch or grip sensing means, said control means preventing operation of said switch and thus preventing supply of power to said brake activation device when the touch or grip sensitive means sense touch or grip of the portion of the handle of the vehicle by a user (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the braking control unit of Hideki with the Actauting assembly of deGoma because putting a positive locking brake on a wheel ensures the safety of the device.

Claim 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hideki (JP-09058462 in view of Yoshiko (JP 09-285798).

Regarding claim 33, Hideki lacks a pair of sensors on the handle, Yoshiko teaches wherein said touch or grip sensing means comprises a pair of grip or touch sensitive pads or switches which are spaced apart on the handle of the vehicle (6a, 6b).

Regarding claim 34 Yoshiko teaches wherein both said pads or switches are required to be activated by touch or grip by both hands of a user to prevent braking of said vehicle by said braking means (6a, 6b). In order to properly operate the cart both hands would need to be on the handle.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the braking control unit of Hideki with the grips of Yoshiko in order to properly and safely operate the vehicle.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James K. Hsiao whose telephone number is 571-272-6259. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JKH

DEVON C. KRAMER
PATENT EXAMINER
6/11/07

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